

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1093 of 1997

in

SPECIAL CIVIL APPLICATION No 1509 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

DV PATEL

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Appellants
SERVED for Respondent No. 1
M/S MG DOSHIT & CO for Respondent No. 4

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 11/02/98

ORAL JUDGEMENT

1. Admitted. Mr. S.T. Mehta, Assistant Government

Pleader, waives service of notice of admission on behalf of respondents No.1 to 3 and Mr. M.G. Doshit, learned counsel, waives service of notice on behalf of respondent No.4. In the facts and circumstances, matter is taken up today for final hearing.

2. This appeal is filed against judgment and order passed by the learned Single Judge in Special Civil Application No.1509 of 1983. That petition was placed for final hearing before the learned Single Judge along with other petitions. From the C.A.V. judgment dated July 11, 1997, it clearly appears that in Special Civil Application No.1509 of 1983 (against which present Letters Patent Appeal is filed), none appeared for the petitioners whereas Mr. M.G. Doshit appeared for the respondents.

3. In the memorandum of Letters Patent Appeal, it is stated that on behalf of the petitioners Mr. A.D. Padival had filed his appearance. As stated in ground No.(1), Mr. Padival expired on 1st May, 1997 and the appellants (petitioners in the petition) had no notice of the date of hearing of their petition, which was tagged with some other matters and the hearing appeared to have taken place on 20th June, 1997. As stated above, C.A.V. judgment is dated July 11, 1997. In these circumstances, it is clear that the day on which matter was heard by the learned Single Judge as well as the judgment was pronounced, nobody was appearing on behalf of the petitioners and the learned counsel for the petitioners had expired prior to date of hearing of the petition.

4. In view of that fact, in our opinion, Letters Patent Appeal deserves to be allowed and is, accordingly, allowed. The order passed in Special Civil Application No.1509 of 1983 is set aside and the office is directed to once again place the matter before an appropriate Court taking such matters. We may state that we are not expressing any opinion on the merits of the matter and as and when the matter is placed before the learned Single Judge, the learned Single Judge will decide the same in accordance with law. Letters Patent Appeal is, accordingly, disposal of with no costs.

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